



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

FACT SHEET FOR H.B. 2382

property; declaration amendment; procedure

Purpose

Establishes a method to amend community declarations.

Background

Property owners may enter into a private covenant on real property that is valid and enforceable if all of the following apply: 1) it is not violating other existing private covenant, declaration or statute; 2) the owner or persons affected consent; and 3) any existing private covenant, declaration requirements have been met. A *private covenant* means any uniform or non-uniform covenant, restriction or condition regarding real property that is contained in any deed, contract, agreement or other recorded instrument affecting real property (A.R.S. § 33-440).

An *association* is a nonprofit corporation or unincorporated association to which all the owners of lots in a planned community must belong. An association is organized under a declaration to own and operate portions of a planned community. A *planned community* is a real estate development that: a) includes real estate owned and operated by a nonprofit corporation or unincorporated association of owners; and b) is created pursuant to a recorded declaration for the purpose of managing, maintaining or improving the property. In a planned community, the owners of separate lots, parcels or units are mandatory members of the association and are required to pay assessments. A planned community does not include a timeshare plan or a timeshare association (A.R.S. § 33-1802).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Enables a board or property owners, if there is no board, to amend a community declaration if the eligible voters or owners subject to the declaration affirm by written consent or a confirming vote.
2. Requires upon adoption of an amendment a written record of the amendment to be prepared within 30 days.
3. Stipulates any amendment to a declaration is effective immediately on recording record of the amendment with the county in which the property is located.

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4. Allows amendment to communication declarations while under declarant control if the declarant provides written consent for each instance.
5. Stipulates declaration amendment may apply to fewer than all of the lots or less than all of the property bound by the declaration if written consent or an affirmative vote of the following is reached by:
 - a) the owners of all the lots or property the amendment applies to; and
 - b) the number of owners or eligible voters in the declaration including the agreement of any individuals or entities specified in the declaration.
6. Exempts condominiums and time shares.
7. Makes technical and conforming changes.
8. Becomes effective on the general effective date.

House Action

JUD	2/10/16	DPA	5-0-0-1
3 rd Read	2/18/16		57-0-3-0

Prepared by Senate Research
February 26, 2016
RH/rf